

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00218-GCM**

S. SHANE SMITH,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
)	
NORTH CAROLINA DEPARTMENT)	
OF ADULT CORRECTIONS, et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on Plaintiff's "Request for Subpoena for Documents" [Doc. 30], which the Court construes as a motion issuance and service of a Subpoena.

Pro se Plaintiff S. Shane Smith ("Plaintiff") is a prisoner of the State of North Carolina currently housed at Foothills Correctional Institution ("Foothills") in Morganton, North Carolina. He filed this action in the Eastern District of North Carolina on November 16, 2022, against Defendants North Carolina Department of Adult Corrections (NCDAC); Todd Ishee, the NCDAC Secretary; John/Jane Doe, the Americans with Disabilities Act (ADA) Coordinator; and Teresa Jardon, the Foothills Warden, claiming that Defendants violated his rights under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, et seq., and the Rehabilitation Act of 1973 ("Rehab Act"). [Doc. 1]. The case was transferred here, and, on September 25, 2023, Plaintiff's Amended Complaint passed initial review in accordance with the Court's Order. [Docs. 12, 15, 16].

Now before the Court is Plaintiff's motion asking the Court to issue a subpoena for his

medical records from EmergeOrtho for care he received in June 2022. [Doc. 30]. The Court will grant Plaintiff's motion, direct the Clerk to issue the subpoena to Plaintiff, and order the U.S. Marshal to serve it on Plaintiff's behalf once Plaintiff has returned the completed subpoena to the Clerk. Plaintiff is admonished, however, that medical providers typically require authorizations to release medical records before they will produce such records pursuant to a subpoena and he should include such signed authorization with his completed subpoena.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff's motion [Doc. 30] is **GRANTED** and the Clerk is instructed to issue a subpoena duces tecum to Plaintiff for his use in obtaining his medical records.

IT IS FURTHER ORDERED that, once Plaintiff returns the completed subpoena to the Clerk, the U.S. Marshal shall serve the subpoena for the Plaintiff in accordance with Rule 45(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Signed: April 3, 2024



Graham C. Mullen
United States District Judge

